

RECEIVED

MAR 14 1990

WATER RIGHTS
SALT LAKE

RECEIVED

MAR 8 1990

WATER RIGHTS
PRICE

AFFIDAVIT

STATE OF UTAH)
) ss.
COUNTY OF SAN JUAN)

Max Dalton, being first duly sworn, upon oath deposes and states as follows:

1. I have been closely associated with the Blue Mountain Irrigation Company, a Utah Corporation, for the last fifty years.

2. Blue Mountain Irrigation Company is a Utah Corporation that acquired preempted water rights since before 1903. The Company was organized March 6, 1888. On April 6, 1888, the territorial water commission gave the Company all of the South Creek water and three fourths of the North Creek water from Blue Mountain near Monticello, San Juan County, Utah. At that time, the shareholders of Blue Mountain Irrigation Company were the settlers of Monticello and therefore the company shareholders and the settlers were one and the same group of people.

3. The town of Monticello was established in 1888, and the inhabitants of Monticello have had year-round usage of company water, both for culinary and for agricultural purposes.

4. The Blue Mountain Irrigation Company put in the first pipeline that served the town of Monticello with culinary water and also water for livestock and agricultural uses.

5. In 1916 Horace W. Sheley was appointed by the District Court of San Juan County, State of Utah, as a master to make a study of water being used from the Blue Mountain drainage and to make recommendations to the Court how water rights should be decreed in a pending legal action. His study and report included North and South Creeks, Spring Creek and Verdure Creek (also known as South Montezuma Creek). This Sheley report was adopted by the Court in its decree.

6. What I would like to now point out is that some of the claims made in the Sheley Report were not in accordance with how the water has been used during the past fifty years. For example: the report does not allow any water for Blue Mountain Irrigation Company during the winter months, dropping it off on the 31st day of August and not picking it up until May 1 of the following year.

7. In about 19³⁶, Blue Mountain Irrigation Company sold to the City of Monticello the culinary pipeline which the Company had installed, together with one second foot of water from the North Creek drainage. The Company later sold to the City the springs of South Creek. It appears to me that Blue Mountain Irrigation

Company had the right to use the water any time they needed it throughout the year when it was available. This is how Blue Mountain Irrigation Company has used the water from my personal observation for the past fifty years.

DATE: March 7, 1990.

Max Dalton

Max Dalton

Subscribed and sworn to before me the day and year last above written.

F. Bennion Redd

Notary Public

Residing at Monticello, Utah

My commission expires:

